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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,190	07/19/2001	J. Alexander Marchosky	JMA 2976.1	1527
26263	7590	10/04/2006	EXAMINER	
SONNENSCHN NATH & ROSENTHAL LLP			FRENEL, VANEL	
P.O. BOX 061080			ART UNIT	
WACKER DRIVE STATION, SEARS TOWER			PAPER NUMBER	
CHICAGO, IL 60606-1080			3626	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/910,190	MARCHOSKY, J. ALEXANDER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vanel Frenel	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 14-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 14-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### Notice to Applicant

1. This communication is in response to the Amendment filed on 6/21/06. Claims 1, 49 and 68 have been amended. Claims 7-13 have been canceled. Claims 73-94 have been newly added. Claims 1-6 and 14-94 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 and 14-94 rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin (5,772,585), Bessette (6,263,330) and in view of Wilkins (6,523,009).

(A) Claim 1 has been amended to recite the limitations of "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients".

Lavin and Bessette do not explicitly disclose that the automated patient – controlled having "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients".

However, this feature is known in the art, as evidenced by Wilkins. In particular, Wilkins suggests that that the automated patient –controlled having "access to each of

said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients" (See Wilkins, Col.4, lines 29-52 , specially lines 40-52).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Wilkins within the collective teachings of Lavin and Bessette with the motivation of providing an individualized patient electronic medical records system for unlimited patient access to her/his personal and comprehensive medical records (See Wilkins, Col.3, lines 16-19).

(B) Claim 49 has been amended to recite the limitations of "storing", "a medical and biographical records database", "said computer network including a security program limiting access to the medical and biographical records database to the individual patient to whom the diagnosis relates and to health care professionals selectively authorized by the patients to access the records".

Lavin and Bessette do not explicitly disclose that the automated diagnosis method having "storing", "a medical and biographical records database", "said computer network including a security program limiting access to the medical and biographical records database to the individual patient to whom the diagnosis relates and to health care professionals selectively authorized by the patients to access the records" (See Wilkins, Col.6, line 1-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Wilkins within the collective teachings of Lavin

and Bessette with the motivation of providing an individualized patient electronic medical records system for unlimited patient access to her/his personal and comprehensive medical records (See Wilkins, Col.3, lines 16-19).

(C) Claim 68 has been amended to recite the limitations of "restricting access to each of said medical, biographical, diagnostic and treatment records in the database to the patients to whom the records relate and to individuals and institutions selectively authorized by the patients".

Lavin and Bessette do not explicitly disclose that the health care finance and insurance having "restricting access to each of said medical, biographical, diagnostic and treatment records in the database to the patients to whom the records relate and to individuals and institutions selectively authorized by the patients".

However, this feature is known in the art, as evidenced by Wilkins. In particular, Wilkins suggests that that the health care finance and insurance having "restricting access to each of said medical, biographical, diagnostic and treatment records in the database to the patients to whom the records relate and to individuals and institutions selectively authorized by the patients" (See Wilkins, Col.6, line 1-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Wilkins within the collective teachings of Lavin and Bessette with the motivation of providing an individualized patient electronic medical records system for unlimited patient access to her/his personal and comprehensive medical records (See Wilkins, Col.3, lines 16-19).

(D) As per claim 73, Wilkins discloses the medical and biographical records system of claim 1; wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins, Col.6, lines 1-24).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(E) As per claim 74, Wilkins discloses the medical and biographical records system of claim 73, wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular image, a voice pattern, a DNA print, a biochemical type, and a blood type (See Wilkins Col.6, lines 1-24).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(F) As per claim 75, Wilkins discloses the medical and biographical records system of wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the health care

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professional and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(G) As per claim 76, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(H) As per claim 77, Wilkins discloses the method wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular image, a voice pattern, a DNA print, a biochemical type, and a blood type (See Wilkins Col.6, lines 1-24).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(I) As per claim 78, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the health care professional and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(J) As per claim 79, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(K) As per claim 80, Wilkins discloses the method wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular image, a voice pattern, a DNA print, a biochemical type, and a blood type (See Wilkins Col.6, lines 1-24).



The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(L) As per claim 81, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the health care professional and comparing the reading to an historical reading (See Wilkins Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(M) As per claim 82, Wilkins discloses the method wherein access to each of said medical, biographical, diagnostic and treatment records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(N) As per claim 83, Wilkins discloses the method wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular

image, a voice pattern, a DNA print, a biochemical type. and a blood type (See Wilkins Col.6, lines 1-24).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(O) As per claim 84, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the health care professional and comparing the reading to an historical reading (See Wilkins Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(P) As per claim 85, Wilkins discloses the medical and biographical records system wherein the security program permits patients to selectively authorize medical and biographical information to be shared between primary and specialist health care professionals (See Wilkins, Col.2, lines 9-19).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(Q) As per claim 86, Wilkins discloses the medical and biographical records system wherein the patient medical and biographical information is information selected from the group consisting of patient genetic history, patient social history, patient mental and emotional health history, patient surgical history, patient environmental history, patient dental and oral health history, patient laboratory results, patient radiological and imaging history, patient organ system history, treatment and medication history, patient otologic and ophthalmological history, and anatomical, biochemical, physiological, pathological, and genetic histories (See Wilkins, Col.5, lines 49-65).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(R) As per claim 87, Wilkins discloses the medical and biographical records system wherein the security program permits the patient to assign a degree of confidentiality to the different medical information stored in the patient's record, and the security program selectively limits the extent and type of information that authorized health care professionals may access based upon the assigned degree of confidentiality (See Wilkins, Col.5, lines 30-48).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

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(S) As per claim 88, Wilkins discloses the medical and biographical records system wherein at the patient's medical and biographical record selectively includes potential medical diagnoses at the option of the patient (See Wilkins, Col.6, lines 25-37).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(T) As per claim 89, Wilkins discloses the medical and biographical records system wherein medical and biographical information is retrievable by insurance providers to provide insurance services (See Wilkins, Col.2, lines 19-33).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(U) As per claim 90, Wilkins discloses the medical and biographical records system wherein medical and biographical information is retrievable by a third party intermediary possessing an insurance provider's policy criteria for comparing the criteria to a patient's medical and biographical record and determining whether an insurance claim should be accepted or rejected (See Wilkins, Col.2, lines 23-26).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(V) As per claim 91, Wilkins discloses the medical and biographical records system wherein said central computer executing a diagnostic program that creates a plurality of diagnostic questions relating to medical signs and symptoms requiring either a "yes- or a "no" response from a patient, stores said diagnostic questions on a central computer, differentially weights the diagnostic questions and responses according to their relative importance in determining a medical diagnosis, provides a software program interface accessible by computers situated remotely from the central computer, said interface interactively displaying to patients a series of the diagnostic questions stored on the central computer, retrieves patient responses to the diagnostic questions and correlates the patient responses to a list of potential diagnoses as a function of the input responses to the medical diagnostic questions and the relative weight of the medical diagnostic questions, and provides the list of potential medical diagnoses to the patient via the computer network (See Wilkins, Col.4, lines 27-45).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(W) As per claim 92, Wilkins discloses the medical and biographical records system wherein the diagnostic program stores potential medical diagnoses, at the option of the patient, to the patient's medical and biographical record (See Wilkins, Col.4, lines 27-52).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(X) As per claim 93, Wilkins discloses the medical and biographical records system, wherein the diagnostic program provides a health care professional with the patients list of potential medical diagnoses at le patient's request (See Wilkins, Col.4, lines 53-67).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(Y) As per claim 94, Wilkins discloses the medical and biographical records system wherein the security program limits access to the medical and biographical records database to health care providers inputting or retrieving medical and biographical information into their own patient records and to health care professionals selectively authorized by the health care provider to input additional medical and biographical information to the patient records (See Wilkins, Col.6, lines 25-40).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(Z) Claims 2-6, 14-48, 50-67 and 69-72 have not been amended are therefore rejected for the same reasons given in the prior Office Action, and incorporated herein.

***Response to Arguments***

4. Applicant's arguments filed on 6/21/06 with respect to claims 1-6, 14-94 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied prior art teaches synthesized stereoscopic imaging system and method (5,510,832), remote health monitoring apparatus using scripted communications (2005/0172022) and patient- controlled medical information system and method (6988075).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

V.F  
V.F

August 29, 2006

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER